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O. Guardians

File No. Wards / 52

Legal Department

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Guardian and Wards Act, 1890.

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Office of the R.L.A.

Guardians and wards Acts, 1890. Section 22(2)

Scales of fees in respect of Minor's Estates.

The word "income" which occurs in the operative part of the Government Resolution No. 8806 dated the 18th October 1934 must be assigned the same consistent meaning throughout. The meaning of the word "income" must vary according to the context. The context here is that of levying a fee in return for the services of the Deputy Nazirs establishment in collecting that income and managing the property. In that context "income" must be given the meaning of actual income as distinguished from income which is due. In other words, it must be construed to mean income which actually accrues and not income which is expected to accrue. Even as used in revenue laws, the word must be taken to mean money and not expectation of receiving money at some time ~~xxxxx~~ in the future (Ballantine's Law Dictionary, Second Edition). The Government Resolution contemplates that the levy should change every year according to the income and, therefore, it would not be correct to construe the expression "when the estate has an annual income of Rs. 500 or less or more than Rs.500" to mean that the estate has the expectation of that annual income irrespective of the income

which has actually accrued. That being so, the practice so far followed by the District Judges of basing the percentage upon the actual income is correct. The letter from the High Court states that a large majority of the Judges say that the practice prevailing in the Bijapur District is obtaining in their own Districts as well. A careful scrutiny of those replies sent along with that letter shows that the District Judges are unanimous in following this practice, which is a long established practice and to which so far no audit objection has been taken. Finally, the R.L.A. would like to point out that, considering that a sufficient margin is left for the management fund by the practice followed so far, it would be unjust to place an additional burden upon the minors' estates by shifting the basis of computation, particularly as that burden would fall upon the poorer estates. For all these reasons, the High Court may be informed that Government do not accept the interpretation suggested by the Examiner, Local Fund Accounts, and that, if there be any doubt on the matter, Government would rather like to confirm the practice so far followed by the District Judges by adding a suitable explanation to the Government Resolution, if necessary.

Sd/- P.M.Lad. 9/5
o;c. Remembrancer of Legal Affairs.
.R.to H.D.,No. 7894, dated the 12th May 1952.

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